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HUSBAND AND WIFE — RIGHTS AND LIABILITIES OF WIFE AS TO THIRD PARTIES — WIFE NOT LIABLE FOR FUNDS FRAUDULENTLY OBTAINED BY HUSBAND AND SPENT BY HER IN GOOD FAITH. — The defendant's husband misappropriated funds belonging to his principal, the plaintiff's decedent. Part of the funds he deposited to the credit of defendant's bank account. The defendant in good faith used the money for household expenses and in cash advances to her husband. In an action for money had and received, *held*, that the complaint be dismissed. *Seagle v. Barreto*, 179 N. Y. Supp. 856 (App. Div.).

A depositary of stolen money who returns it to the thief before notice of the theft is not liable. *Hill v. Hays*, 38 Conn. 532. Nor is an agent who disposes of a negotiable instrument apparently belonging to his principal, and turns the proceeds over to the latter. *Spooner v. Holmes*, 102 Mass. 503. Consequently, as to the funds that the defendant turned over to her husband and those which she disbursed generally at his behest she should be protected. But as to the money expended on necessities for herself she not only acted as agent but was also the recipient. That being true and the expenditure made being beneficial, she could not plead change of position as a defense, if she were a donee. See *WOODWARD, QUASI CONTRACTS*, § 29. But she is more than a donee. Her services, it is true, are not consideration, the duty to render them arising from the marriage relation. *Blaechinska v. Howard, etc. Home*, 130 N. Y. 497, 29 N. E. 755. She has, however, a legal claim on her husband for necessities. *Goodale v. Lawrence*, 88 N. Y. 513; *Cunningham v. Cunningham*, 75 Conn. 64, 52 Atl. 318. See 1909 N. Y. CONSOL. L., DOMESTIC RELATIONS LAW, § 51. And the release of that claim is value and gives her indefeasible title to the money. *Miller v. Race*, 1 Burr. 452; *First Nat. Bank v. Gibert*, 123 La. 846, 49 So. 593. On this reasoning the result of the case can be supported.

HUSBAND AND WIFE — TENANCY BY ENTIRETIES — WHETHER PERSONALTY MAY BE HELD BY THE ENTIRETY. — An agreed statement of facts set forth that funds which were the proceeds of real estate owned in entirety by a husband and his wife and of personal property also owned by them were used to purchase store property both real and personal. The administrator of the husband's estate excepted this property from his accounts as property of the wife, and the account was allowed by the Probate Court. *Held*, that there was no error. *George v. Dutton's Estate*, 108 Atl. 515 (Vt.).

In some jurisdictions married women's acts have abolished estates in entirety and have substituted therefor tenancy in common. *Thornley v. Thornley*, [1893] 2 Ch. 229. See *Pray v. Stebbins*, 141 Mass. 219, 4 N. E. 824. In other states tenancy by the entireties still exists. *Butilar v. Rosenblath*, 42 N. J. Eq. 651, 9 Atl. 695; *Hiles v. Fisher*, 144 N. Y. 306, 39 N. E. 337. If realty is held in entirety, estates in entirety may exist in personality growing out of the realty. *Vartie v. Underwood*, 18 Barb. (N. Y.) 561. At common law, chattels could not be held in entirety. See 1 BISHOP, MARRIED WOMEN, § 211. Whether choses in action which do not come within the doctrine of conversion can be held in entirety has been disputed. The orthodox common-law view is against estates in entirety in any personality. *Blake v. Jones*, Bail. Eq. (S. C.) 141; *Re Albrecht*, 136 N. Y. 91, 32 N. E. 632. See 21 HARV. L. REV. 446. It is strange that since the passage of the emancipation statutes courts should follow the analogy of realty when dealing with personality. Since estates in entirety in personality were not recognized at common law *a fortiori*, they should not be sanctioned under the statutes which aim to abolish antiquated doctrines. But the possibility of estates in entirety in personality finds some support. *Phelps v. Simon*, 159 Mass. 415, 34 N. E. 657; *Bramberry's Appeal*, 156 Pa. St. 628, 27 Atl. 405.